

City of Markham

Ontario



By-law 2013-136

**A By-law to regulate the use, alteration, and
occupancy of Highways within the City of Markham**

(Schedules/attachments included)

(Consolidated for convenience only
to March 25, 2014)

AS AMENDED BY:

By-law 2014-23 – March 5, 2014

By-law 2014-37 – March 25, 2014



BY-LAW 2013-136

A By-law to regulate the use, alteration, and occupancy of Highways within the City of Markham

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, hereinafter the ("Municipal Act, 2001") provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural Person for the purpose of exercising its authority under the Municipal Act;

AND WHEREAS Section 11(3)1 of the Municipal Act, 2001, provides that a municipality may pass by-laws within the following spheres of jurisdiction: Highways, including parking and traffic on Highways;

AND WHEREAS Section 391(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws imposing fees or charges on any Person for services or activities provided by the municipality or done on behalf of it;

AND WHEREAS Section 436(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS Section 429(1) of the Municipal Act, 2001, provides that a municipality may establish a system of fines for a by-law passed under the Act;

AND WHEREAS Section 444 of the Municipal Act, 2001, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS Section 446 of the Municipal Act, 2001, provides that a municipality may proceed to do things at a Person's expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS The Council of The Corporation of the City of Markham desires to repeal and replace By-laws 191-89 (Fouling of Streets), 68-92 (Trees on Highways), 158-93 (Curb Cuts), as amended, with an updated Road Occupancy By-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

1.0 SHORT TITLE

1.1 This By-law shall be known as the "Road Occupancy By-law"

2.0 DEFINITIONS

2.1 In this By-law:

Alter means to change in any manner and includes to restore, renovate, repair or disturb and “alteration” has a corresponding meaning.

Boulevard means the portion of the *highway* between a street line and the edge of the curb, or where there is no curb, that portion of the *highway* which is travelled or designed to be travelled by vehicles.

Boulevard Patio means a designated area within a boulevard associated with an abutting eating establishment where food and drink are offered for sale and/ or consumed, no wider than the width of the eating establishment’s storefront.
(Amended by By-law 2014-37)

Boulevard Tree means a tree located on highway within the City that has fifty (50) percent or more of the tree’s diameter at grade on the highway.

City means The Corporation of the City of Markham.

Construction means anything done in the erection, installation, extension or material alteration, demolition, or repairs of a building or structure, utility or surface, grading of property and includes the installation of building units fabricated or moved from elsewhere and installation of an in-ground/on-ground swimming pool including the installation of a hot tub, above ground-pool or landscaping.

Contractor means any person alone or with others undertaking *construction* on a property or a highway.

Damage means harm or injury to the street, including without limitation, harm, injury, disturbance, cracking, gouging or displacement of or to the pavement, curb, boulevard, landscaping, trees, retaining walls, street furniture or sidewalk resulting from the use of the street to access work such that, in the sole opinion of the *Director*, the street is not in its pre-construction condition.

Director means the Director of Operations for the *City* or designate.

Donation Bin shall mean any receptacle used for the purpose of collecting donated items, including but not limited to clothing, appliances, and toys.

Highway includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, including the area between the lateral property lines thereof and includes unopened and unassumed road allowances.

Landscape or Construction Material includes gravel, soil, sod, bricks, and paving stones, landscaping rocks, wooden planks or boards.

Municipal Law Enforcement Officer (“Officer”) includes an employee of the *City* who has been appointed by by-law to enforce the provisions of *City* by-laws and a member of York Regional Police.

Notice of Obstruction includes an order issued under this by-law.

Obstruct(ion) includes encumber, *damage*, foul, or *alteration*.

Occupant means a lessee, tenant, mortgagee in possession or any other *person* who appears to have care and control of any property.

Order includes Work Order, Order to Comply, Order to Discontinue.

Over-Dimensional Vehicle means any combination of vehicle and load having a width, length, height or weight in excess of limits provided for in the Highway Traffic Act.

Person includes a corporation and its directors and officers and their successors and assigns unless the context otherwise requires and includes an *Officer*.

Publication means a newspaper or other similar printed document which is published. (Amended by By-law 2014-23)

Publication Dispensing Box means a container placed, installed, used or maintained for the dispensing of a single publication to the public either for financial consideration or free of charge. (Amended by By-law 2014-23)

Publication Dispensing Unit means a single container placed, installed, used or maintained for the dispensing of two or more publications of the same or different publishers to the public, either for financial consideration or free of charge. (Amended by By-law 2014-23)

Road Occupancy Permit (“Permit”) includes a *road occupancy permit* and any other *permit* as required to undertake work on a *highway*.

Street Furniture includes benches, garbage containers, hand rails, tables, signs, posts, any other above ground appurtenance that is owned and used by the public.

3.0 GENERAL PROVISIONS

- 3.1 No *person* shall *alter, obstruct* or *damage*, or cause or permit the use, alteration, *obstruction* or *damage* of any *highway* without first having obtained a *Road Occupancy Permit*.
- 3.2 No *person* shall undertake *construction* on land abutting on a *highway* which may affect the drainage of the highway or require alteration of street furniture without first having obtained a *Road Occupancy Permit*.
- 3.3 No *person* shall fail to comply with a *Notice of Obstruction* or an *Order* issued pursuant to this by-law.
- 3.4 Without limiting the generality of subsection 3.1, no *person* shall *alter, obstruct* or *damage*, or cause or permit the use, alteration, *obstruction* or *damage* of any *highway* by any of the following:
 - 3.4.1 the depositing, throwing, spilling or tracking or cause or permit the depositing, throwing, spilling or tracking of any material, waste or soil onto any *highway*;
 - 3.4.2 the depositing of snow or ice on travelled portion of the *highway* or onto a *boulevard* not contiguous with the property from the snow was moved from;
 - 3.4.3 the placement of any snow or ice, or any materials or equipment, or any structures within 1.2m, in any direction of a fire hydrant;
 - 3.4.4 the placement of leaves, grass clippings, and debris from private property to the portions of the *highway* normally used for pedestrian or vehicular traffic;
 - 3.4.5 the altering of the grade on any *boulevard* unless the *person* without having obtained a *Road Occupancy Permit*, pursuant to this by-law;
 - 3.4.6 the parking of equipment, motorized equipment other than motorized equipment permitted and licensed under the regulations of the Ministry

of Transportation of Ontario, containers, trailers, or any Landscape or Construction Material on a *highway* without having obtained a *Road Occupancy Permit*;

- 3.4.7 the cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having obtained a *Road Occupancy Permit*;
- 3.4.8 the allowance of a crane boom or any portion of a stationary tower crane to travel over, hoist, or otherwise occupy the space above a *highway* or any part thereof without having obtained a *Road Occupancy Permit*;
- 3.4.9 the excavation or *damage* to any portion of a *highway*, including sod, trees, light poles, street signs or other objects within the *highway* without having obtained a *Road Occupancy Permit*;
- 3.4.10 the placement of donation bins on a *highway*;
- 3.4.11 the placing or depositing of sporting equipment, including but not limited to basketball nets, skateboard ramps and bicycle ramps, on a *highway*;
- 3.4.12 place or move any *street furniture* on a *highway* without having obtained a *Road Occupancy Permit*;
- 3.4.13 allow the discharge of irrigation systems onto a sidewalk or the travelled portion of a *highway*; and,
- 3.4.14 no person shall use or occupy a *highway* for the purpose of the sale, or offering to sale, of any goods and services, including the sale of event tickets.

4.0 USE OF A BOULEVARD

- 4.1 No person shall in relation to a *boulevard*:
 - 4.1.1 create or establish vehicle or trailer access to a property across a *boulevard* without approval of the *Director*;
 - 4.1.2 construct a driveway apron crossing the *boulevard* at width greater than the curb cut at the street-line and greater than the width of the driveway, as permitted under the applicable zoning by-law;
 - 4.1.3 construct a raised curb or similar *obstruction* within 0.3m of a sidewalk;
 - 4.1.4 construct, install, or place any fence, post, light post, rock(s), and decorative wall on a *boulevard*; and,
 - 4.1.5 erect or maintain, without permission of the *City*, any projections of any kind beyond the main wall of buildings, if such projections will encroach upon a *highway* and without restricting the generality of the foregoing, projections include air conditioners, cornices, eaves, awnings, containers, awning covers, sills, brackets and other similar obstructions extending beyond the main walls of a building.

5.0 BOULEVARD TREES

- 5.1 No person shall in relation to *boulevard trees*:

- 5.1.1 plant, maintain, or hang an object on a *boulevard tree* on any *highway* within the *City* without having obtained a *Road Occupancy Permit*, pursuant to this by-law;
 - 5.1.2 plant or maintain any species of *boulevard trees* listed in subsection 5.3 to this by-law on any *highway* within the *City*; and,
 - 5.1.3 remove, injure or permit an animal to injure a *boulevard tree* on any *highway* within the *City* without having obtained a *Road Occupancy Permit*, pursuant to this by-law.
- 5.2 The costs of remedying any contravention of subsection 5.1 shall be at the expense of the person(s) causing the contravention and may be recovered in accordance with section 19.
- 5.3 The City may remove from any *highway* within the *City*, without notice, any of the following prohibited species of *boulevard trees* and any tree encroaching onto a *highway* that is decayed, *damaged*, or dangerous:

Prohibited Species of Trees

SCIENTIFIC NAME	COMMON NAME
POPULOS- All species	Populars
SALIX- All species	Willows
ACER- saccharium	Silver Maple
ACER- negundo	Manitoba Maple
ULMUS- parvifolia	Chinese Elm
PYRUS- All species	Apple, Pear
PRUNUS- All species	Cherry
Coniferous Trees- All species	

- 5.4 The *City* may trim or remove any trees, hedges, plants or bushes planted on the *boulevard* and may trim the branches of any trees, hedges, plants or bushes planted on private property, that extend onto the *highway*.
- 5.5 The City may plant, at the City's expense and with the consent of the owner of the lands, shade or ornamental trees on private property within 2.5m of a *highway*, the property owner is responsible for the maintenance, repair, and removal of the trees.

6.0 BOULEVARD PATIOS

(Amended by By-law 2014-37)

- 6.1 No person shall in relation to a *Boulevard Patio*:
- 6.1.1 place, permit, install, operate or maintain a *Boulevard Patio* on a *highway* without having obtained a *Road Occupancy Permit* pursuant to this by-law;
 - 6.1.2 place, permit, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* at a location that is not approved by the *Director* or installed in a manner that is not in conformity with the requirements established by the *Director*;
 - 6.1.3 place, permit, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* that is not in conformity with the size, dimension and other technical or physical requirements established by the *Director*;
 - 6.1.4 place, permit, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* that is not maintained in accordance with the maintenance requirements established by the *Director*,

6.1.5 place, permit, install, operate on a *highway* within the *City* a *Boulevard Patio* in contravention of the terms and conditions of the *Road Occupancy Permit* and requirements established by the *Director*;

6.1.5 place, permit, install, operate or maintain on a *highway* within the *City* a *Boulevard Patio* prior to April 1st each year and use or maintain a *Boulevard Patio* past October 31st each year;

6.1.6 place, permit, install or allow the encroachment of any furniture, umbrella, post or any other equipment within a *Boulevard Patio* past the approved barriers or the area of encroachment as established by the *Director*;

6.2. A *Boulevard Patio* may be removed from a *highway* by the *City* in accordance with by-law provisions where:

6.2.1 the placement, installation and maintenance of a *Boulevard Patio* does not comply with all requirements, terms and conditions contained in a *Road Occupancy Permit*, this by-law or any policy established by the *Director* regulating *Boulevard Patios* and a *Road Occupancy Permit* and the non compliance is not cured by the permit holder within forty-eight (48) hours of the *City* advising the permit holder of such non-compliance;

6.3 The *Director* may, at the sole expense of the applicant, and in accordance with a policy established by the *Director* regulating *Boulevard Patios*, require the temporary relocation of a *Boulevard Patio*, or suspension or revocation of a permit if such temporary relocation of a *Boulevard Permit* or suspension or revocation of a *Road Occupation Permit* is necessary for:

6.3.1 the interests of pedestrian, vehicular or public safety;

6.3.2 to accommodate a special event; or

6.3.3 to accommodate the construction, maintenance or repair of a *highway*, transit facilities or a public utility or service.

7.0 PUBLICATION DISPENSING DEVICES

(Amended by By-law 2014-23)

7.1 No person shall in relation to *Publication Dispensing Boxes* or *Publication Dispensing Units*:

7.1.1 place, install, use or maintain a *publication dispensing box* or a *publication dispensing unit* on a *highway* without having obtained a *Road Occupancy Permit* pursuant to this by-law;

7.1.2 place, install, use or maintain on a *highway* within the *City* a *publication dispensing box* or *publication dispensing unit* at a location that is not approved or prohibited by the Director of Operations or installed in a manner that is not approved or prohibited by the Director of Operations;

7.1.3 place, install, use or maintain on a *highway* within the *City* a *publication dispensing box* or *publication dispensing unit* that is not in conformity with the standard size, dimension and other technical or physical requirements established by the Director of Operations;

7.1.4 fail to maintain a *publication dispensing box* or a *publication dispensing unit* on a *highway* in accordance with the terms and conditions set by the Director of Operations and the *Road Occupancy Permit*;

7.1.5 fail to provide on or before February 1st of each year to the Director of Operations an inventory, in the prescribed form, of all *publication dispensing boxes* or *publication dispensing units* on *highways* within the *City* under control of the person.

7.1.6 permit third party advertising, signs or notices on a *publication dispensing box* or *publication dispensing unit* and the advertising of the permit holder shall be limited to one side of the *box* or *unit* only.

7.1.7 a *publication dispensing box* or *publication dispensing unit* may be removed from a *highway* by the *City* in accordance with by-law provisions where:

7.1.7.1 the *box* or *unit* is left unstocked with current publications for a period greater than twenty one (21) consecutive days;

7.1.7.2 the *box* or *unit* having been vandalized or damaged is not repaired within forty-eight (48) hours of *Notice* from the *City*; or

7.1.7.3 the placement, installation and maintenance of a *publication dispensing box* or *publication dispensing unit* does not comply with all requirements, terms and conditions contained in a *Road Occupancy Permit*, this by-law or any policy established by the Director of Operations regulating *publication dispensing boxes* or *publication dispensing units* and a *Road Occupancy Permit*..

7.1.8 The Director of Operations may, at the sole expense of the applicant, and in accordance with a policy established by the Director of Operations regulating *publication dispensing boxes* and *publication dispensing units*, require the temporary relocation of a *publication dispensing box* or *publication dispensing unit* or suspension or revocation of a permit if such temporary relocation of a *publication dispensing box* or *publication dispensing unit* or suspension or revocation of a *Road Occupancy Permit* is necessary for:

7.1.8.1 the interests of pedestrian, vehicular or public safety;

7.1.8.2 to accommodate a special event; or

7.1.8.3 to accommodate the construction, maintenance or repair of a *highway*, transit facilities or a public utility or service.

8.0 OVER-DIMENSIONAL VEHICLES

8.1 No *person* shall operate an *over-dimensional vehicle* on any *City highway* without having obtained a *Road Occupancy Permit*.

9.0 REMOVAL OF HIGHWAY OBSTRUCTION

9.1 If an *Officer* determines that an *obstruction* of a *highway* exists, the *Officer* may issue a *Notice of Obstruction* requiring the *owner*, *occupant* and/or *contractor* of the property from which the *obstruction* comes from, relates to, or was created for, to discontinue causing the *obstruction* and to remove the *obstruction* and repair, as necessary, at the expense of the *owner*, *occupant* and/or *contractor* so that the *highway* is brought back to its former condition prior to the *obstruction*.

9.2 Where the *Notice of Obstruction* described in subsection 9.1 is not complied with within the time period stipulated therein, the *City* may remove the *obstruction* and repair, as necessary, the *highway* and all the costs incurred by the *City* in undertaking this work shall be expenses owed to the *City* by the

owner, occupant and/or contractor of property from which the *obstruction* comes from, relates to, or was created for.

10.0 REMOVAL OF HAZARDOUS CONDITION

10.1 Where an *Officer* determines that an *obstruction* of a *highway* is, or may create, a hazardous condition to the safety of any *person* using the *highway*, the *Officer* may take any action necessary to have the *obstruction* immediately removed and the *highway* repaired, if necessary, and all the costs incurred by the *City* in undertaking this work shall be expenses owed to the *City* by the *owner, occupant and/or contractor* of the property from which the *obstruction* comes from, relates to, or was created for.

11.0 ROAD OCCUPANCY PERMITS- ADMINISTRATION

11.1 A *person* may apply for a *permit* under this by-law if the *person*:

11.1.1 completes an application for the *permit* on the forms as provided by the *Director*;

11.1.2 submits the application along with the applicable fees and charges as provided for in Schedule 'A' to this by-law; and,

11.1.3 provides any documentation, deposit or security as set out in Schedule 'B' to this by-law, or insurance certificates, as required by the *Director* as prerequisites and requirements for the issuance of the *permit*.

11.2 The issuance of a *permit* under this by-law does not relieve any person from the necessity of acquiring any other license or permit or complying with any other applicable laws, by-laws, regulations and requirements of other governmental authority.

11.3 A *permit* is the property of the *City* and is not transferable unless otherwise authorized by the *Director*.

11.4 Every applicant shall post with the *City* the required deposit or security, by way of cash, certified cheque, debit card, or letter of credit, in a form satisfactory to the *City*. The *City* does not accept payments for deposits or securities by credit card.

12.0 PERMIT CONDITIONS

12.1 A *permit* holder shall comply or ensure compliance with all provisions and conditions of the *permit* and this By-law.

12.2 A permit holder shall provide and maintain a contact phone number that the *Director* or an *Officer* may reach the permit holder at all time.

12.3 Failure to comply with any provision or condition of a *permit* or this by-law may result in the revocation of the *permit* by the *Director*, in addition to any other enforcement proceedings against the *permit* holder as permitted by law.

12.4 The *permit* holder of a revoked *permit* shall immediately cease or ensure the immediate cessation of all the activities for which a *permit* has been issued upon revocation of the *permit* under subsection 12.3.

12.5 Every Permit holder and every owner and occupier of land shall forthwith rectify *damaged* conditions on a *highway*, on land or to municipal services and

shall reinstate the *highway*, the land and the municipal services, as the case may be, to the satisfaction of the *Director*.

12.6 Every Permit holder and every owner and occupier of land shall provide all signs, barricades, traffic control devices, flagpersons, and other persons and equipment required by the Director.

12.7 Every Permit Holder shall maintain access to all private and public properties during any *highway* closure and occupancy.

12.8 Every Permit Holder shall provide a Letter of Credit/ Security Deposit as required in Schedule 'B' to this By-law.

13.0 ENFORCEMENT

13.1. *Municipal Law Enforcement Officers* are hereby authorized and empowered to enforce the provisions of this By-law.

13.2 No *person* shall hinder or obstruct, or attempt to hinder or obstruct, any *person* who is exercising a power or performing a duty under this by-law.

13.3 *Municipal Law Enforcement Officers* and *persons* under their direction may at any reasonable time enter onto any lands within the *City* to determine if the provisions of this by-law are being complied with or may enter onto any lands within the *City* to carry out the remedial actions required to bring the property into conformity with the by-law.

13.4 *Municipal Law Enforcement Officers* are empowered for the purposes of inspection to determine compliance with the by-law to:

13.4.1 require the production for inspection of documents or things relevant to the inspection, including the removal of the documents for the purposes of making copies or extracts;

13.4.2 alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of inspection; and,

13.4.3 require information from any person concerning a matter related to the inspection.

14.0 NOTICE OF OBSTRUCTION

14.1. A *Municipal Law Enforcement Officer* may enter upon any *land* or *property* at any reasonable time with proper identification to determine if the *owner, contractor or permit holder* is complying with the provisions of this by-law and may take photographs of the *property's* and *highway's* condition.

14.2. Where a *highway* is not maintained in accordance with the requirements of this bylaw or a *permit* issued under this by-law:

14.2.1 the *City* may serve the *owner, contractor, or permit holder* a *Notice of Obstruction* in writing directing the *owner, contractor, or permit holder* to bring the *highway* into conformance with the requirements of this by-law; and,

14.2.2 the *owner, contractor, or permit holder* shall repair, remove or clean up all contraventions identified on the *Notice of Obstruction* within the time period specified.

15.0 NOTICE OF OBSTRUCTION – DELIVERY- WHEN DEEMED SERVED

15.1. The *Notice of Obstruction* from the *City* may be:

15.1.1 served personally upon the *owner, contractor, or permit holder*;

15.1.2 posted on site; or,

15.1.3 mailed by regular mail to the last known address of the *owner, contractor, or permit holder* according to the current assessment rolls.

15.2. If served by regular mail, a *Notice of Obstruction* under subsection 15.1.3. shall be deemed to have been served on the fifth day after mailing.

16.0 DISPOSING OF MATERIAL AND EQUIPMENT

16.1 Any *landscape or construction material* removed by the *City* from a *highway* under this By-law may be directly deposited onto the property from which the *obstruction* comes from, relates to, or was created for, or the material may be treated as refuse by the *City* or become property of the *City* which can be disposed of in any manner or used for any *City* purpose.

16.2 Any *landscape or construction material, motorized equipment, containers, trailers, or motorized tools* removed by the *City* may, at the discretion of the *Director* or the *Officer*, be deposited at the property from which the *obstruction* comes from, relates to, or was created for, or be stored at a *City* facility for sixty (60) days at the owner's expense.

16.3 Any item in subsection 16.2 shall only be released to the owner or permit holder after the owner or permit holder has paid the *City* any applicable expense for the removal and storage of the item.

16.4 Any item in subsection 16.2 that is stored at a *City* facility for more than sixty (60) days and for which an owner has not been identified may be disposed of by the *City* in any manner that it deems appropriate.

16.5 Any item in subsection 16.2 that is stored at a *City* facility for more than sixty (60) days and for which the owner, having been notified, has failed to pay the applicable expenses and claim the item, may be disposed of pursuant to the provisions of the Repair Storage and Liens Act, R.S.O. 1990, c.R.25, as amended.

17.0 EXEMPTIONS

17.1 The Regional Municipality of York, Powerstream, Bell Canada, Telus, Rogers Cable Systems, Enbridge Consumers Gas, or any other utility or their respective agent will not require a *Road Occupancy Permit* to undertake the following types of work:

17.1.1 installing, maintaining or relocating a pole line;

17.1.2 raising or lowering utility service boxes;

17.1.3 work on shut-off valves except for repair work on valves within the travelled portion of the roadway or within a sidewalk;

17.1.4 initial work conducted in new subdivisions to installation of sidewalk, curb, and gutter and asphaltic concrete pavement; and,

17.1.5 work in manholes, valve chambers, and transformer vaults.

17.2 Notwithstanding a *Road Occupancy Permit* is not required under section 17.1, the above agencies shall comply with the requirements of the Ministry of Transportation Traffic Control Manual for Roadway Operations, as may be amended or replaced from time to time.

17.3 Subject to section 17.1, when the Regional Municipality of York, Powerstream, Bell Canada, Telus, Rogers Cable Systems, Enbridge Consumers Gas, or any other utility or their respective agent closes or occupies a *highway* or a portion of a *highway* as a result of an emergency, telephone notice shall be given immediately to the *City* and on the next working day application for a permit as required by this by-law shall be made.

18.0 SERVICE FEES

18.1. The municipal service fees for the administration and enforcement of this by-law shall be in accordance with the fees established in Schedule 'A' any revisions thereto.

18.2. Service fees for the administration and enforcement of this by-law may be applied when a contravention has been confirmed by an *Officer*.

19.0 RECOVERY OF COSTS

19.1 Where the *City*, its employees or authorized agents have performed the work required for compliance with this by-law, all expenses incurred by the *City* in doing the work as well as any related fees, shall be deemed to be a debt to the *City* and may be collected by action or the costs may be added to the tax roll for the *property* and collected in the same manner as taxes.

20.0 OFFENCES

20.1 Every *person* who contravenes any of the provision of this by-law or fails to comply with a Notice of Obstruction or an Order issued under this by-law or who obstructs or attempts to obstruct an *Officer* or an employee or agent of the *City* in carrying out his or her duties under this By-law is guilty of an offence and is liable, upon conviction to a maximum fine as established pursuant to the Provincial Offences Act, R.S.O.,1990, c.P.33.

20.2 Pursuant to subsection 441.1 of the *Municipal Act, 2001. S.O. 2001, c.25*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

21.0 ADMINISTRATION AND INTERPRETATION

21.1 The *Director* shall be responsible for the administration of this by-law.

21.2 Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine.

21.3 The headings inserted in this by-law are for convenience only.

21.4 Schedules 'A' and 'B' attached to this by-law shall form part of this by-law.

22.0 SEVERABILITY

22.1 Notwithstanding that any section or sections of this by-law, or any part, or any part thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such clause, Schedule or parts thereof shall be deemed to be severable, and all other clauses and Schedules of this by-law or parts thereof, are separate and independent therefrom and enacted as such.

23.0 REPEAL

23.1 By-laws 191-89 (Fouling of Streets), 68-92 (Trees on Highways), 158-93 (Curb Cuts), as amended, are hereby repealed.

24.0 INTERPRETATION

24.1 The provisions of the Legislative Act 2006, shall apply to this by-law.

25.0 FORCE AND EFFECT

25.1 This by-law shall come into force and effect on the date of enactment and passage.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
26TH DAY OF JUNE, 2013.

"Kimberley Kitteringham"

KIMBERLEY KITTERINGHAM
CITY CLERK

"Frank Scarpitti"

FRANK SCARPITTI
MAYOR

SCHEDULE 'A' TO BY-LAW 2013-136

ROAD OCCUPANCY FEES

#	Description	Fee	Fee Calculation
1	Work done by the City of Markham or the Region of York	\$0	Work contracted under the authority of the City of Markham or the Region of York.
2	Minor work by residents	\$50	3 day maximum i.e. bin or moving pod storage on street
3	Construction short term	\$100	Up to 1 month maximum
4	Construction long term	\$250	Up to 6 months maximum
5	Permit extension fee	50% of permit fee/term extension	applied for each additional term extension i.e. 1 yr permit 250 + 1 x 125 = \$375
6	Rush Fee	\$50	If permit required sooner than 3 business days. Also applied to fee exempt contractors
7	Encroachment on boulevard	\$1/m2/mth	Where hoarding, covered walkways or other temporary structures extend onto public lands or for areas used to store materials, equipment or shelters
8	Encroachment on roadways	\$10/m2/mth	Where the roadway is used to facilitate activities related to the development of adjacent lands i.e. loading/staging areas
9	Aerial crane trespass fee	\$500/mth	Where fixed crane booms extend over public lands
10	Construction access fee	\$100	Where access to a construction site occurs through parkland or over a boulevard
11	On-street parking	\$600	Where existing signage requires modification to accommodate parking associated with development as identified in Construction Management Plan
12	Excess Load (single occurrence)	\$100	Single event
13	Excess Load (Annual)	\$250	Annual fee
14	Security Deposit	\$500 min	Charged when activities have a likelihood of damaging public property or when road degradation fees will be levied. Based on value of assets at risk
15	Road Degradation Fee		Penalty for decreasing pavement service life when activities cut or bore surfaces or otherwise degrades surface. Based on age of road surface
		\$39/m2	Road surfaces < 2 years old
		\$31/m2	Road surfaces between 2 & 4 years old
		\$23/m2	Road surfaces between 4 & 7 years old
		\$15/m2	Road surfaces between 7 & 10 years old
		\$7/m2	Road surfaces > 10 years old
16	Curb Modification Application Fee	\$100	Application fee
17	Curb Cutting	\$40/m	Min. charge 4 m
18	Curb Infill	\$116/m	Min. charge 2 m
19	Concrete sidewalk remove/replace	\$100/m2	Min. charge 4 m2
20	Asphalt repair	\$75/m2	Min. charge 4 m2
21	Culvert Modification Application Fee	\$250	Charged when culvert installation is undertaken by applicant.
22	Culvert Installation	\$160	Per meter installed, up to 450mm dia.
23	Publication Dispensing Box & Publication Dispensing Unit Permit	\$50/\$100	\$50 for first fifty (50) boxes or units and \$100 per box or unit thereafter (Amended by By-law 2014-23)
24	Publication Dispensing Box & Publication Dispensing Unit Permit	\$25	Cost per location to assess new locations as proposed by the applicant (Amended by By-law 2014-23)
25	Newspaper Vending Box Permit	\$50	Annual fee per box placed

26	Newspaper Vending Box Inspection Fee	\$25	Cost per location to assess new locations as proposed by applicant.
27	Banner Installation	\$100	Per banner installed
28	Street Cleaning - Sweeping	\$130/hr	Min. charge 4 hours
29	Street Cleaning - Flushing	\$110/hr	Min. charge 4 hours
30	Boulevard Patio- Permit Fee for a new application	\$375	Fee for initial review of application or in subsequent years when changes to a patio configuration are requested (Amended by By-law 2014-37)
31	Boulevard Patio- Renewal of Permit Fee	\$250	Annual fee to renew a permit that was active in the prior year when no changes to configuration are requested (Amended by By-law 2014-37)
32	Boulevard Patio- Encroachment Fee	\$35/m ²	Annual fee in addition to permit fee for each m ² of public land occupied by the Patio (Amended by By-law 2014-37)

SCHEDULE 'B'TO BY-LAW 2013-136

LETTER OF CREDIT/ SECURITY DEPOSIT

1. Letter of Credit/ Security Deposit

An irrevocable Letter of Credit/ Security Deposit in favour of the City to cover 150% of the estimated cost of all permit fees as listed in Schedule 'A' of this By-law for the anticipated duration of the project or minimum deposits of, whichever is higher:

i.	Minor work carried out by residents	\$500.00
ii.	Construction- duration less than a month	\$2,000.00
iii	Construction- duration over a month	\$5,000.00

- a) The Letter of Credit/ Security must remain in effect for the full duration of the permit. Any Letter of Credit/ Security Deposit and its subsequent renewal forms shall contain a clause stating that the thirty (30) days written notice must be given to the Director prior to its expiry or cancellation; and,
- b) In the event the Director receives notice that a Letter of Credit/ Security Deposit is expiring and will not be renewed, or, if further or additional securities are not provided within the said thirty (30) days, the Director may draw on the current Letter of Credit.

2. Prior to the release or reduction of the Security Deposit, the Permit Holder shall:

- a) Provide a proof satisfactory to the Director that the permitted area has been adequately reinstated in accordance with the requirements of the By-law; and,
- b) Request that the City carry out a final inspection to confirm that all relevant terms of this By-law have been complied with.

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